

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

JOSHUA BROOKS PAGE

PLAINTIFF

V.

CIVIL ACTION NO.1:14CV221-DAS

DANNY EARL STARKS, et al.

DEFENDANTS

ORDER DENYING MOTION TO DISMISS

The plaintiff has filed this civil rights action against Danny Earl Starks, a former Monroe County Deputy Sheriff. The other defendants are Monroe County and the Monroe County Sheriff's Department. The complaint alleges that Starks beat the plaintiff while Page was restrained by other Monroe County deputies. Starks has moved to dismiss any state court claims based on Mississippi's one year statute of limitations for assault and battery and other intentional torts. § 15-1-35. The plaintiff counters that he has not made any state court claim, but instead is making his claim for excessive use of force under 42 U.S.C § 1983. Plaintiff argues that because the claim is made under § 1983, it is governed by Mississippi's general three year statute of limitation. *Edmonds v. Oktibbeha County*, 675 F.3d 911, 916 (5th Cir. 2012), Miss. Code Ann. §15-1-49.

The court has reviewed the plaintiff's complaint and finds that it brings only a claim for excessive use of force under §1983. This action is therefore governed by Mississippi's general three year statute of limitations, not the one year period of limitations. The complaint was timely filed under the applicable statute. The motion to dismiss is denied.

SO ORDERED this the 14th day of April, 2015.

/s/ David A. Sanders

UNITED STATES MAGISTRATE JUDGE